

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

COMPLIANT CORPORATION  
4670 Richmond Road  
Warrensville Heights, Ohio 44128

Plaintiff,

v.

Donald C. Hutchins  
1047 Longmeadow Street  
Longmeadow, Massachusetts 01106

Defendant

CASE NO: CV04540066

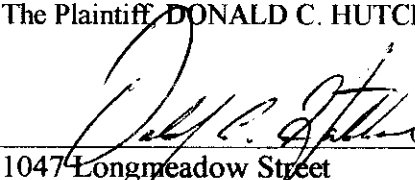
JUDGE: EILEEN A. GALLAGHER

**DEFENDANT'S MOTION FOR RELIEF FROM JUDGEMENT**  
**PURSUANT TO RULE 60(b)(1)(2)**

Defendant, Donald C. Hutchins ("Hutchins") hereby respectfully moves this Court pursuant to rule 60(b)(1)(2) of the Ohio Rules of Civil Procedure for Relief from Judgment entered for the Plaintiff pursuant to the Order of the Court entered August 34, 2005 granting the Plaintiff's Motion for Summary Judgement.

The Plaintiff, DONALD C. HUTCHINS, Pro Se

Dated: September 22, 2005

  
\_\_\_\_\_  
1047 Longmeadow Street  
Longmeadow, Massachusetts 01106  
(413) 734-2625  
(413) 739-4060 (facsimile)

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Warrensville Heights, Ohio 44128	)	
	)	JUDGE: EILEEN A. GALLAGHER
Plaintiff,	)	
	)	
vi.	)	
	)	
Donald C. Hutchins	)	
1047 Longmeadow Street	)	
Longmeadow, Massachusetts 01106	)	
	)	
Defendant	)	

**DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR  
RELIEF FROM JUDGEMENT PURSUANT TO  
RULE 60(b)(1)(2) OF CIVIL PROCEDURE**

**I. RELIEF SHOULD BE GRANTED PURSUANT TO RULE 60 (b)(1)**

Defendant, Hutchins acting pro se was surprised by the Plaintiff's Motion for Summary Judgement because the pre-existing Federal Civil Action 04-30126-MAP, that addresses the same issues with all parties present, is nearing resolution. This Court had continued this Ohio action during two separate hearings pending resolution of the federal case. Plaintiff requested the last continuance to accommodate its attorney's maternity leave and a trial was docketed for December 12, 2005.

**II. RELIEF SHOULD BE GRANTED PURSUANT TO RULE 60 (b)(2)**

Newly discovered evidence in the form of an Affidavit of Gary E. Martinelli, Esq. and attached as Exhibit A was filed on September 7, 2005 in Federal Civil Action 04-

## EXHIBIT #7

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Defendant

CASE NO: CV04540066

JUDGE: EILEEN A. GALLAGHER

**DEFENDANT'S MOTION FOR CONTINUANCE**

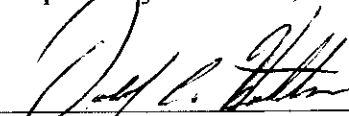
**COMES NOW Defendant** Donald C. Hutchins, and hereby moves the Court to grant a Continuance. Defendant, Donald C. Hutchins notified the Clerk of Court and Plaintiff's counsel, Colleen M. O'Neil, Esq. by letter dated September 13, 2005, herein attached as Exhibit #1, to gain her agreement for a continuance for a Hearing set for 9/27,2005. The Court's scheduler, Laura, showed that this Hearing was not scheduled for 9/27/05 and referred Hutchins to Bridgett McAndrews who does not answer her phone.

Attorney O'Neil has not responded, so Hutchins is placing this request directly with the Court in the form of a Motion. Hutchins would prefer to reschedule a court date in late October when he would be available to fly to Cleveland at a non-emergency airfare.

Respectfully submitted,

Dated: September 22, 2005

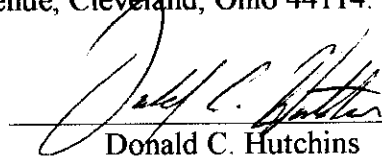
By:

  
DONALD C. HUTCHINS, Pro Se  
1047 Longmeadow Street  
Longmeadow, MA 01106  
Phone: (413) 567-0606  
Fax: (413) 739-4060

CERTIFICATE OF SERVICE

I, Donald C. Hutchins, 1047 Longmeadow, Massachusetts 01106, hereby certify that I served a copy of the foregoing on the appropriate party by mailing a copy of the same to: Colleen M. O'Neil, Esq., Calfee, Halter & Griswold, LLP, 1400 McDonald Investment Center, 800 Superior Avenue, Cleveland, Ohio 44114.

Dated: 9/22/05

  
Donald C. Hutchins